



DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: This notice is a summary of a petition for modification submitted to the Mine Safety and Health Administration (MSHA) by the party listed below.

DATES: All comments on the petition must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Docket No. MSHA-2022-053 by any of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments for MSHA-2022-053.
2. *Fax:* 202-693-9441.
3. *Email:* petitioncomments@dol.gov
4. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452.

Attention: S. Aromie Noe, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401.

Individuals may inspect copies of the petition and comments during normal business hours at the address listed above. Before visiting MSHA in person, call 202-693-9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202-693-9440 (voice), Petitionsformodification@dol.gov (email), or 202-693-9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations (CFR) part 44 govern the application, processing, and disposition of petitions for modification.

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. The application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, sections 44.10 and 44.11 of 30 CFR establish the requirements for filing petitions for modification.

II. Petition for Modification

Docket Number: M-2022-022-C

Petitioner: M&D Anthracite Coal Company, 71 Hill Road, Hegins, Pennsylvania, 17938.

Mine: Slope #1, MSHA ID No. 36-09976, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1002 (a), Installation of electric equipment and conductors; permissibility.

Modification Request: The petitioner requests a modification of 30 CFR 75.1002(a) to permit the use of non-permissible electric equipment, including drags and battery locomotives, within 150 feet of the pillar line.

The petitioner states that:

- (a) The mine is a pitching anthracite mine.
- (b) The use of drags on less than moderate pitching veins (less than 20 degrees pitch) is the only practical system of mining in use.
- (c) Permissible drags are not commercially available. Partly due to their small size, permissible locomotives are not commercially available.
- (d) Because of low daily production rates and full timbering support, in-rushes of methane resulting from massive pillar falls are unlikely to occur.
- (e) Recovery of the pillars above the first miner heading is usually accomplished on the advance within 150 feet of the section intake (gangway) and the remaining minable pillars are recovered from the deepest point of penetration outby.

The petitioner proposes the following alternative method:

- (a) The equipment shall be operated in the working section's only intake entry (gangway) which is regularly traveled and examined.
- (b) Methane testing shall occur on an hourly basis and the test results shall be recorded in the on-shift examination record.
- (c) Equipment operation shall be suspended if the methane concentration at the equipment reaches 0.5% methane during a pre-shift examination or operation.
- (d) The required intake air flow of 5,000 cubic feet per minute shall be measured just outby the non-permissible equipment, with the ventilating air passing over the equipment to ventilate the pillar being mined.
- (e) The electrical equipment shall be attended during operation and shall be de-energized at the intersection of the working gangway and intake slope.
- (f) Where more than one active line of pillar breast recovery exist, the locomotive may travel to a point just outby the deepest active chute/breast (room) workings or last open crosscut in a developing set of entries.

The petitioner asserts that the alternative method proposed will at all times guarantee no less than the same measure of protection afforded the miners under the mandatory standard.

Song-ae Aromie Noe,

Director,

Office of Standards, Regulations, and Variances.

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